

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
December 6, 2010**

APPROVED 1/10/11

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Westwood Zoning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: Eric Oakes
Michael Bieri
Raymond Arroyo, Vice-Chairman
William Martin, Chairman
Robert Bicocchi
Christopher Owens
Vernon McCoy (Alt #1)
Matthew Ceplo (Alt #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney
Louis Raimondi, Brooker Engineering,
Board Engineer
Steve Lydon, Burgis Associates,
Board Planner

ABSENT: Guy Hartman (excused absence)

4. MINUTES: The Minutes of 10/4/10 and 11/1/10 were approved on motion made by Mr. Arroyo, seconded by Mr. Oakes, and carried on roll call vote.

5. CORRESPONDENCE:

1. Memorandum from Burgis Associates dated 11/16/10 RE: Lockup Storage, 125 Bergenline Avenue;

(WWZB 12/6/10 Minutes)

6. VOUCHERS: A motion to approve vouchers totaling \$2,916.25.00 was made by Mr. Arroyo, seconded by Mr. Oakes, and carried unanimously on roll call vote.

7. RESOLUTIONS:

1. Fahie - 60 Westwood Boulevard - Application for Certification of Non-Conforming Use - Attorney Rutherford read the Resolution of approval into the record. There were no further discussions. A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. Bieri. On roll call vote, Mr. Bicocchi, Mr. Bieri, Mr. Arroyo, Mr. Oakes, Mr. McKoy, and Mr. Martin voted yes. Mr. Owens and Mr. Ceplo were not eligible to vote.

8. PENDING NEW BUSINESS:

1. Lock-Up Storage, 125 Bergenline Avenue - Notice of Appeal/Variance Application - Lock Up Storage = Scott Berkoben, Esq. came forward. The grant program to install solar panels is necessary but Congress could not extend the grant program into next year. There was a typo in the date published by The Record on the hearing date. Mr. Berkoben asked if they could still proceed, but Mr. Rutherford advised it was not legal to. A Special Meeting for 12/22/10 was requested. Mr. Rutherford will prepare the Notice to be published in the two newspapers and forward it to the Borough for publishing for a Special Meeting on Wednesday, 12/22/10 at 7:00 p.m. Mr. Martin commented the Board Professionals felt the Fire Department may have comments and asked that the Board Secretary have the application circulated to all the Departments for comment and respond prior to 12/22/10.

2. DePaola, 112 Prospect Avenue - Certification of Non-Conformity - Set for 1/10/11;

9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS, INTERPRETTIONS:

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS
The Board Professionals were sworn in

1. New St. Mark AME Zion Church, 100 Palisade Avenue - Minor Site Plan application - Scott Berkoben, Esq. represented the applicant and presented the Application of Service. The application is for a subdivision of a non-conforming use and a

(WWZB 12/6/10 Minutes)

site plan. Richard Eichenlaub, Engineer, and William B. Klapper, Surveyor and Planner, were sworn in, qualified and accepted. Mr. Raimondi asked whose survey they would be using, and Mr. Berkoben responded the Survey prepared by Mr. Klapper, Behar Surveying Associates, dated 7/7/10. The dwelling number was revised to #72. The purpose is to transfer the easterly 22' of property from Lot 20 in Block 1901 and add it to the westerly side of Lot 19, the adjacent property owner. It will not affect anything and make the neighbor lot more conforming. Mr. Lydon commented presently variances for both sides yard are required. With this transfer the variances are not required. Mr. Raimondi asked for the site plan with the owners' signature, consenting to the application. Mr. Rutherford advised what was needed was a copy of the application signed by the church and the neighboring property.

Mr. Barnther a member of the applicant church and Board of Trustees of the church was sworn in. Mr. Martin asked what the benefit was to the church, besides the money. The neighboring property owner approached the church and asked if they would sell part of the land. Mr. Martin asked Mr. Eichenlaub how it would affect the use of the church property. Mr. Eichenlaub responded it provides ample buffer between the properties. It is just lawn area and no one parks there. Mr. Rutherford advised that Mr. Ward, owner of the adjacent property, should sign the application.

Mr. Lydon reviewed his report dated 9/20/10. Mr. Rutherford inquired whether they would be in compliance with the parking requirements. Mr. Eichenlaub said they would be deficient 10 parking spaces rather than six. They cannot meet the 30 spaces required in their present state. Mr. Martin questioned whether this should be taken into consideration for the subdivision. Mr. Lydon said they would be improving the situation. Mr. Rutherford advised the reason they are here is because of the non-conforming use. The removal of the 22' of property is irrelevant. Mr. Berkoben stated they are ready to move on this application, as the Board said they must proceed. They originally wanted to present both applications together. Mr. Eichenlaub said the subdivision plans are not part of this application now; it will be updated to conform with Mr. Klapper's subdivision. The plans were prepared on a prior subdivision map.

(WWZB 12/6/10 Minutes)

The matter was opened to the public, but there were no interested parties. Discussion followed on a D-2 variance. Mr. Rutherford advised five affirmative votes were needed. On further discussion, Mr. Rutherford asked if the approval was tied to any subdivision or site plan. If granted, the parking on the property may not be improved unless it is tied together. Theoretically, it can stand on its own. All we are doing is relocating a lot line, but what action is the applicant going to take after the approval. Mr. Martin observed there is still a reason to approve the subdivision because it improves Lot 19. Mr. Lydon agreed. Mr. Martin asked if the Board would want to make the parking lot a condition of the approval. The applicant commented he preferred not to have this as a condition. Mr. Owens and Mr. Oakes expressed that they would want to include the condition since there is no existing detriment now anyway. Mr. Arroyo also agreed. Mr. Martin felt the addition of the 22' to Lot 19 is a significant benefit to the other property owner and the church is not using it. We do not need to put that additional burden on the applicant. Mr. Bicocchi agreed with the Chairman, commented the church has been around for a long time and it would benefit the adjacent property owner and the Borough.

A motion was made by Mr. Arroyo to approve the subdivision without making the parking lot a condition of the approval, and with modifications being made to the plan as stated. The motion was seconded by Mr. Bicocchi. On roll call vote, Mr. Bicocchi, Mr. Bieri, Mr. Arroyo, Mr. Oakes, Mr. Owens, Mr. McKoy, and Mr. Martin voted yes.

The Board took a recess at 9:00 p.m. and reconvened at 9:12 p.m.

2. Pourquoi Pas - 31 Westwood Ave. - Appeal/Variance Application - Mr. Owens recused himself and stepped down from the dais. Mr. Lydon recused himself and stepped down from the dais. Catherine Gregory acted as Substitute Board Planner. Mr. Lamb represented the applicant. The escrow deficiency was paid by check at the hearing. The applicant tried to make the business viable by trying all different dining options. During the past few months the business has not improved. They had reduced the original number of seats requested and amended the application from 16 seats to 32 seats. Since that time they are asking the Board to review and allow 32 seats after 5:00 p.m.

(WWZB 12/6/10 Minutes)

every day and all day Sunday and 20 seats before 5:00 p.m. for the lunch time traffic. They would be essentially adding one more table.

Peter Steck, Planner, came forward, having been previously sworn in September and remained under oath. He indicated this would not change his conclusion, and the lunch hour is crucial time. They are just adding one more table. If the Borough wants economic development down town, and with the businesses patronizing each other, this could be a make or break the restaurant. It may add only one more car and would be insignificant. Mr. Bieri asked if it was open for lunch at present, and Mr. Lamb stated right now it was not, and it is closed Sunday and Monday. The applicant wants the ability to be open. Mr. Steck explained how any negative impact is minimized. Mr. Arroyo noted the Master Plan did not recommend new restaurants in the zone, and asked for more positive criteria. Mr. Steck responded what makes this restaurant stand out is it was morphed from a food use with limited seating that had predated the ordinance. Mr. Lamb stated the component of gourmet food is different. Mr. Oakes and Mr. Arroyo had questions on the number of seats. Mr. Martin asked Mr. Steck if in looking at the Master Plan where it talks about specialty food, this fits in there. Mr. Steck stated there is a lingering over specialty food, and the uniqueness of the restaurant is linked to specialty food, and it is French. There is a lower demand for parking at this end of Westwood Avenue. Ms. Gregory commented applicant has two seatings, and this restaurant or bistro does not have a bar. There will not be anyone waiting at a bar and this adds to the uniqueness. Mr. Arroyo commented it is something like a supper club.

The matter was opened to the public. Bruce Meisel came forward and was sworn in. Mr. Meisel commented there are only three uses on Westwood that qualifies for this use: Pompilio's, Conrans and Porqui Pas. Ironically each one is on a different block. This is a very small place, and they have not created bad precedent, because there are no other spaces on Westwood Ave that could be construed in this way. It crates a nice mix on each block and contains a food element. There were no other interested parties. Mr. Lamb rested his case.

Board discussion followed. Mr. Arroyo expressed they should be careful not to create a precedent. It is important to

(WWZB 12/6/10 Minutes)

distinguish this use in any approval as a European café or bistro. Mr. Martin commented in the coming year the Planning Board will begin its revaluation of the Master Plan. He recommended breaking the application down in parts. Mr. Martin said Pompilio's was a pre-existing, non-conforming use, being expanded. Mr. Arroyo expressed concern about controlling the use, but did not think it would be an issue at lunch time. Ms. Gregory had suggested adding the positive criteria to any resolution.

A motion for approval was made by Mr. Bicocchi with the conditions as stated, i.e., 20 seats at lunch up to 5:00pm, seven days per week and all day Sunday, with second by Mr. Oakes. It would be called a specialty food bistro. Mr. Rutherford also noted there was testimony that there are specific seatings, which also makes it unique. On roll call vote, Mr. Bicocchi, Mr. Bieri, Mr. Arroyo, Mr. Oakes, Mr. McKoy, Mr. Ceplo, and Mr. Martin voted yes. Mr. Owens was recused.

Ms. Gregory stepped down from the dais and departed. Mr. Lydon returned to the dais. Mr. Owens returned to the dais.

3. Retro Fitness - 25 Sullivan Street - Variance -
Adjourned to 1/10/11 at request of applicant;

4. Go Green Car Wash, LLC, 22 Kinderkamack Road, Block 1608, Lot 14 - Nancy Saccente, Esq. represented the applicant. Mr. Rutherford gave an overview of the application and procedures. Revised plans were just received this evening. Ms. Saccente explained the plans were revised substantially.

Charles Olivo, PE, PTOE, Principal of Stonefield Engineering and Design, LLC, was sworn in, qualified and accepted. He is a Licensed Engineer and Civil Engineer. Approximately 60 cars are stored on the property. This is a green car service which is waterless. The cleaning products are plant and water-based. The Site Plan was dated 12/1/10. They were proposing landscape islands to bring the impervious coverage down to 92%. Mr. Olivo described the circulation from northerly to southerly access. Exhibit A6 was site Site Circulation Exhibit, showing the turning movements. Also show were two lanes of traffic turning into the building from the northern most access point. Based on conversation with the operator, the number of employees and customers during the week

(WWZB 12/6/10 Minutes)

is two cars in five minutes. Approximately 5-7 employees would be on site to service the building. If 24 cars were to arrive at peak hours, they would be serviced with little or no queue on site. There is queuing space for 10 vehicles.

Mr. Olivo continued. Some of the other improvements, such as lighting, would be on schedule from 8:00 a.m. to 5:00 p.m. in Winter and 8:00 a.m. to 7:00 p.m. in Summer. The landscape islands would maintain the existing drainage patterns. Ms. Saccente questioned the witness, who indicated there would be a commercial vacuum on site with the installation of a quiet kit to lessen the noise to a typical conversation of approx. 60 decibels. Ms. Saccente had documentation, marked A7. Mr. Olivo referred to the revised Architectural Plan entitled Plan and Details, dated 8/24/10, revised, prepared by Ali Qureshi, Architect, which the Board did not have. Mr. Olivo would deliver these plans to the Board. Dumpsters on wheels were shown. The building sign will be above the front door and there were changes to the free-standing sign. There would also be a plastic sign with pricing as you come in. The sizes of the signs were stated. They would not be lit. Copies of the sizes would be provided to the Board. They added four landscape islands. There is a requirement of a 325' sight line, to be kept clear of sight obstruction. They would work with Mr. Raimondi.

Questions by the Board followed. Mr. Raimondi asked about traffic flow and stacking. The cars would come in off Kinderkamack Road, and loop around. There were 15-20 per hour trips during weekdays and 25-30 on weekends. Two cars could be serviced at once. Mr. Raimondi asked if he considered coming in off Lester and how many cars could come in off the queuing lane. Mr. Olivo responded maybe they could add two cars. Mr. Martin felt it was better to keep the cars off Lester Avenue and away from the residential neighbors. Mr. Raimondi was concerned about cars coming in off Kinderkamack and making a left into the car wash when a car is coming out of Lester making a right onto Kinderkamack. Mr. Martin commented the Board needed copies of the exhibit and that it should be circulated to the Departments. Mr. Martin felt the left turn would be prohibited by the Count and it would be safer to turn into Lester. Mr. Martin commented this might work if we could eliminate any impact on the neighbors. Mr. Raimondi would review the planner further. Board Members questioned the witness, with different suggestions. Mr.

(WWZB 12/6/10 Minutes)

Martin commented Mr. Raimondi should study this further. The planner should also review this. Mr. Lydon suggested a lighting plan. There were only the existing, pole mounted lights, Mr. Olivo noted.

The matter was opened to the public, and Jennifer Gordon, the neighbor to the West expressed concern about the exit being in the bus stop. Mr. Olivo said they were not going to change it, but would be in discussion with the County. They would mark it on the plan. Mr. Raimondi noted the site plan states "not for construction", which leads to confusion during construction. Whatever is approved here, must be stated. Mr. Olivo stated they would work with Mr. Raimondi.

The matter was carried to the 1/10/11 meeting.

5. Wiese, 101 Hurlbut Street, Block 1608, Lot 3 -
Adjourned to 1/10/11 at the request of the applicant;

10. DISCUSSION: None

ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 11:00 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary